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Total Number of Pages in This Submission

Application Number 09/995,303

Filing Date 11/27/2001

First Named Inventor Robert C. Beck

Art Unit 3763

Examiner Name Matthew F. DeSanto

Attorney Docket Number 2446

ENCLOSURES (Check all that apply)

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<input type="checkbox"/> After Final	<input type="checkbox"/> Petition to Convert to a Provisional Application	<input type="checkbox"/> Proprietary Information
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SIGNATURE OF APPLICANT, ATTORNEY, OR AGENT

Firm Name	BECK & TYSVER, P.L.L.C.		
Signature			
Printed name	Robert C. Beck		
Date	Reg. No.	28,184	

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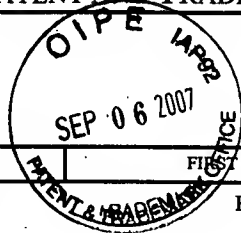
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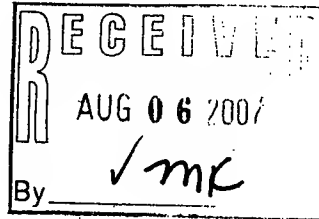


APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/995,303	11/27/2001	Robert C. Beck	2446	1374

7590 08/03/2007
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EXAMINER

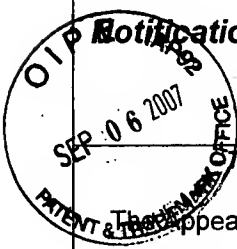
ART UNIT PAPER NUMBER



DATE MAILED: 08/03/2007

9/3/07 OX

Please find below and/or attached an Office communication concerning this application or proceeding.



**Notification of Non-Compliant Appeal Brief
(37 CFR 41.37)**

Application No.

09/995,303

Applicant(s)

BECK, ROBERT C.

Examiner

Matthew Desanto

Art Unit

3763

The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

The Appeal Brief filed on 06 July 2007 is defective for failure to comply with one or more provisions of 37 CFR 41.37.

To avoid dismissal of the appeal, applicant must file an amended brief or other appropriate correction (see MPEP 1205.03) within **ONE MONTH or THIRTY DAYS** from the mailing date of this Notification, whichever is longer.
EXTENSIONS OF THIS TIME PERIOD MAY BE GRANTED UNDER 37 CFR 1.136.

1. ☒ The brief does not contain the items required under 37 CFR 41.37(c), or the items are not under the proper heading or in the proper order.
2. ☐ The brief does not contain a statement of the status of all claims, (e.g., rejected, allowed, withdrawn, objected to, canceled), or does not identify the appealed claims (37 CFR 41.37(c)(1)(iii)).
3. ☐ At least one amendment has been filed subsequent to the final rejection, and the brief does not contain a statement of the status of each such amendment (37 CFR 41.37(c)(1)(iv)).
4. ☒ (a) The brief does not contain a concise explanation of the subject matter defined in each of the independent claims involved in the appeal, referring to the specification by page and line number and to the drawings, if any, by reference characters; and/or (b) the brief fails to: (1) identify, for each independent claim involved in the appeal and for each dependent claim argued separately, every means plus function and step plus function under 35 U.S.C. 112, sixth paragraph, and/or (2) set forth the structure, material, or acts described in the specification as corresponding to each claimed function with reference to the specification by page and line number, and to the drawings, if any, by reference characters (37 CFR 41.37(c)(1)(v)).
5. ☐ The brief does not contain a concise statement of each ground of rejection presented for review (37 CFR 41.37(c)(1)(vi)).
6. ☐ The brief does not present an argument under a separate heading for each ground of rejection on appeal (37 CFR 41.37(c)(1)(vii)).
7. ☐ The brief does not contain a correct copy of the appealed claims as an appendix thereto (37 CFR 41.37(c)(1)(viii)).
8. ☒ The brief does not contain copies of the evidence submitted under 37 CFR 1.130, 1.131, or 1.132 or of any other evidence entered by the examiner and **relied upon by appellant in the appeal**, along with a statement setting forth where in the record that evidence was entered by the examiner, as an appendix thereto (37 CFR 41.37(c)(1)(ix)).
9. ☒ The brief does not contain copies of the decisions rendered by a court or the Board in the proceeding identified in the Related Appeals and Interferences section of the brief as an appendix thereto (37 CFR 41.37(c)(1)(x)).
10. ☐ Other (including any explanation in support of the above items):

1. Improper Headings: The brief contains improper headings that are not required under 37 CFR 41.37. The heading "Issues" should be renamed as Grounds of Rejection to be Reviewed on Appeal; "Grouping of Claims" should be combined with Arguments. Please refer to MPEP 1205.02

4. Summary of Claimed Subject Matter: The independent claims 7 and 28 should be clearly provided and the claims should be explicitly mentioned in the Summary section by page and line number, paragraph number, or to the drawings, if any.

8. and 9. Evidence Appendix and Related Proceedings Appendix: these two sections are missing from this appeal brief. If nothing is being submitted with these two sections, an indication of "NONE" is required.

Leneetha L. Dyar
Patent Appeal Center Specialist



09/995,303

PATENT**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

Appellants:	Robert C. Beck	Examiner:	Matthew F. DeSanto
Serial No.:	09/995,303	Group Art Unit:	3763
Filing Date:	November 27, 2001	Docket No.:	2446
Title	Interventional Device		

Date of Deposit: 9-4-07

I hereby certify that this paper is being deposited in the United States Postal Service, as first class mail, in an envelope addressed to: Commissioner for Patents, PO Box 1450, Alexandria, VA 22313-1450

Signature: Mary S. KellerPrinted Name: Mary S. Keller**BRIEF ON APPEAL**

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Commissioner for Patents
Alexandria, VA 22313

Sir:

This Brief on Appeal is filed pursuant to the Notice of Appeal filed 05/03/07 and is an appeal from the Office Action mailed from the U.S. Patent and Trademark Office on 01/03/07. The fee for filing an appeal brief was transmitted with the notice of appeal. The balance of this appeal is set forth under appropriate headings, as specified by 37. C.F.R. §1.192(c).

I. REAL PARTY IN INTEREST

The real part in interest is Sprite Solutions, 2256 Hendon Avenue, St. Paul, MN 55108, Assignee of the entire right, title and interest in the subject application, by virtue of an Assignment recorded on January 18, 2005 at Reel 016153, Frame 0099. Sprite Solutions has licensed the patent application to Medrad Inc. of Indianola Pa.

II. RELATED APPEALS AND INTERFERENCES

Appellant, the undersigned Attorney and Assignee are not aware of any related appeals or interferences that will directly affect or be directly affected by or have a bearing on the Board's decision in the pending appeal.

III. STATUS OF CLAIM

Claims 7-9 and 18-24 and 27-30 are pending in the application and they have been finally rejected. A copy of the claims appears in the Appendix of this Brief. These claims were amended in the Amendment filed on 10/05/06. Claims 1-6, 10-17 and 25-26 were canceled.

IV. STATUS OF AMENDMENTS

No Amendment After Final has been filed.

V. SUMMARY OF CLAIMED SUBJECT MATTER

The specification shows in Fig. 1 an injector 12 for injecting fluid from a syringe 14 into an interventional device 10 (catheter). Fluid injected in to the patient is collected at the treatment site in the patient and extracted or recovered though the body 9 of the interventional device coupled to a collection vessel 22. In short the fluid injected into the catheter is ultimately collected along with biologic debris from the treatment site.

Fig. 2 shows a simple embodiment of the invention. The view is of the working end of the device 10. In terms of the claims at issue in this appeal, the extraction sheath 27 contains the discharge lumen 20 that is used to collect fluid and debris. In Fig. 2 the Coanda nozzle of the

interventional device is shown formed by the conical wall 42 (nubbin) and the gap 40 which cooperate together to turn the fluid 44 through an angle and shoot it toward the open end 36 of the extraction sheath 27.

Fig. 13-17 show the “angioplasty/stent placement balloon” embodiments addressed in the claims on appeal.

Independent claim 7 adds an angioplasty balloon to the structure of Fig. 2 and independent claim 28 adds a stent placement balloon 77 (Fig. 13) to the structure of Fig. 2. In all other respects the two independent claims are essentially the same. The method of independent claim 7 starts with the passage of the extraction sheath and the interventional device to the treatment site. Next fluid is injected through the gap 79 (Fig. 13) next to the “wall” formed in Fig. 13 by nubbin 76. The Coanda effect occurs in this circumstance and the primary injected jet turns through an angle shown in Fig. 14 as flow 74, or in Fig. 2 as flow 44. The “whereby clause” results from the operation of the Coanda effect promoting the flow into the exhaust sheath.

Please note that other structural features seen in Fig. 13-17 show how the nubbin can be made as a balloon rather than as a rigid structure seen in the remaining figures. This has not been the subject of claims.

By way of argument kindly note that the use of the Coanda effect to direct flow is not shown in the references applied during prosecution and that the use of the Coanda nozzle along with an angioplasty or stent placement balloon is not found in the catheter art.

VI. GROUND OF REJECTION TO BE REVIEWED ON APPEAL

The one issue presented for review is whether the claims are anticipated under 35 U.S.C. §102(e) by the Nash et al. reference (USPN 6,524,323) and under §102(b) by the Fischell et al. reference (USPN 5,100,425).

VII. GROUPING OF CLAIMS AND ARGUMENT

With respect to the arguments on appeal all of the claims stand or fall together as a group.

A. With respect to the rejection of claims 7-9, 18-24 and 27-30 under 35 U.S.C. §102(e) over Nash 6,080,170. Nash fails to show the “gap projecting said fluid jet in an initial direction away from said wall adjacent said gap, said wall serving to restrict entrainment of fluid by said primary fluid flow, thereby creating a pressure difference across said primary fluid jet flow such that said primary fluid flow turns through an angle away from said initial direction away from said wall and turns toward said wall thereby exhibiting the Coanda effect”. The method of the claim requires turning fluid using the Coanda effect and that limitation is not present in the Nash reference.

B. With respect to Claims 7-9, 18-24 and 27-30 are rejected under 35 U.S.C. §102(b) under Fischell 5,100,425. Like Nash, Fischell is deficient in the sense that it does not teach the use of a Coanda effect geometry to guide fluid, when carrying out the method of the invention.

C. The method of the claims calls for structures not found in the references (Coanda nozzle claim 7 and claim 28; and stent deployment balloon claim 28). The method calls for relative motions between physical elements not found in the references. Neither Nash nor Fischell shows the use of an angioplasty therapy balloon (claim 7) or a stent deployment balloon (claim 28) in combination with the method of fluid injection and debris recovery called for by the claims. Applicant respectfully asserts that these claims are not anticipated by the references. Applicant requests reversal of the Examiner’s decision on these grounds.

EVIDENCE APPENDIX

NONE

RELATED PROCEEDINGS APPENDIX

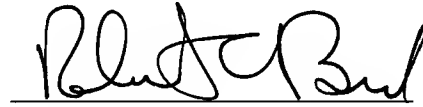
NONE

Respectfully submitted,

SPRITE SOLUTIONS

By its attorneys:

Date: 9/4/07

A handwritten signature in black ink, appearing to read "Robert C. Beck", written over a horizontal line.

Robert C. Beck

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